**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO. 21 OF 1999**

Sudhakar Pandurang Tandel
Darshan Builders and
Developers,
Dr. Ambedkar Road,
Opp. New Shakti Mills,
Thane (West) ...Petitioner

Versus

1. Bhagavati Prasad Rekhai Pande,

2. Ashok Kumar Rekhai Pande,
Both adults, Occ. Business,
residing at Khojaka
Tabela, Old Agra Road,
Manor Pada, Thane.

3. The State of Maharashtra ...Respondents.

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Mrs. Gauri Godes, counsel for Petitioner

Mr. P.U. Badadare with Mr. P.R. Arjunwadkar counsel for Respondent Nos. 1 and 2.

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**CORAM: B. H. MARLAPALLE, J.**

**DATED: 24TH FEBRUARY, 2005**

**JUDGMENT:-**

1. The present respondents had filed Regular Civil Suit No. 374 of 97 seeking permanent injunction against the demolition of cattle shed in the suit property i.e. Survey No. 101/A, Tika No.8 and more particularly known as " Khojaka Tabela" on Old Agra Road of Thane City. The application filed for

temporary injunction was rejected, therefore, the plaintiffs approached this Court in Civil Revision Application No. 609 of 1998, it was admitted and the trial court was directed to hear and dispose of the suit expeditiously and preferably before March, 1999, as per the order dated 2.9.98. Further by way of interim order, it was directed that pending hearing and final disposal of the Revision, the applicant would maintain status-quo as on 2.9.98 and will not carry out any further constructions or create any third party rights in respect of suit property in dispute or part with possession thereof.

2. It is alleged that inspite of this order of status-quo, the plaintiffs had undertaken further construction and therefore, acted in breach of the order passed by this Court. There is no dispute that the suit has been dismissed on 3.8.2000 by the trial Court and the first appeal filed by the plaintiff came to be dismissed on 11.9.2001. The plaintiffs have filed an affidavit in reply and stated that no further construction was undertaken by them and the subject wall was always part of the cattle shed. It is further stated that the contempt petitioner is a developer and coercive proceedings are filed to evict the original plaintiffs from suit premises. On the other hand the petitioner developer has relied upon the photograph which is annexed at Exh.B.

3. The said photograph does show that the construction behind the water tank like the structure and on the said construction there is a bamboo like roof standing in the fact that the entire structure looks like the cattle shed. The plaintiffs on oath have denied that they have constructed any additional wall and they contends that the wall was always in existence. The allegations made by the petitioner are therefore, disputed question of fact and the photograph placed on record does not assist to prove and determine that the wall was constructed after the status-quo order was passed by this Court. In such circumstances, it cannot be said that the order passed by this Court has been violated.

4. In the result, this contempt petition fails and the same is hereby dismissed. Rule discharged.